



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service  
Food and Drug Administration

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San Francisco District  
1431 Harbor Bay Parkway  
Alameda, CA 94502-7070  
Telephone: 510/337-6700

Via Federal Express REF: FROM MARIA FOR T

Our Reference: 29-52433

September 15, 2000

Eliseu and Theresa Cunha  
Eliseu and Theresa Cunha Dairy  
6596 16<sup>th</sup> Avenue  
Hanford, California 93230-9251

**WARNING LETTER**

Dear Mr. and Mrs. Cunha:

Tissue residue reports from the United States Department of Agriculture (USDA) and an investigation of your dairy located at 6682 16<sup>th</sup> Avenue, Hanford, CA on July 5, 2000 by Food and Drug Administration (FDA) Investigator Thomas W. Gordon have revealed serious violations of the Federal Food, Drug, and Cosmetic Act as follows:

A food is adulterated under Section 402(a)(2)(C)(ii) of the Act if it contains a new animal drug that is unsafe within the meaning of Section 512. On May 27, 2000, you delivered a cow (identified by USDA laboratory report number 331635) to be slaughtered for human food. This cow was delivered for introduction into interstate commerce by your firm and was adulterated by the presence of illegal antibiotic drug residues. USDA analysis of tissues from this cow revealed penicillin in the kidney at 0.50 parts per million (ppm). The tolerance level for penicillin for the edible tissues of cows has been established at 0.05 ppm.

A food is adulterated under Section 402(a)(4) of the Act "if it has been prepared, packed, or held under insanitary conditions...whereby it may have been rendered injurious to health." As it applies in this case, "insanitary conditions" means that you hold animals which are ultimately offered for sale for slaughter as food under conditions which are so inadequate that medicated animals bearing possibly harmful drug residues are likely to enter the food supply. For example, our investigator noted the following:

1. You lack an adequate system for determining the medication status of animals you offer for slaughter.
2. You lack an adequate system for assuring that animals to which you administer medication have been withheld from slaughter for appropriate periods of time to deplete potentially hazardous residues of drugs.
3. You lack an adequate system for assuring that drugs are used in a manner not contrary to the directions contained in their labeling.
4. You lack an adequate system for assuring animals have been treated only with drugs which have been approved for use in their class of animal or species.
5. You lack an adequate inventory system for determining the quantities of drugs used to medicate your cows and calves.

You are adulterating the drug Agripharm brand penicillin G procaine within the meaning of Section 501(a)(5) of the Act when you do not use this drug in conformance with its approved labeling. Penicillin G Procaine labeling prescribes a dosage of 1 mL per 100 pounds of body weight and warns against using more than 10 mLs per injection site. Your practice of administering a 25 mL injection in one site in an animal results in a dosage in excess of that allowed by the labeling. This overdosing presents a possibility that illegal residues will occur and is likely the cause of the illegal residues found in the animal you sold for slaughter.

Your practice of mixing 10 mLs. of the Agripharm brand penicillin G procaine injection with 30 mLs. of water to prepare a uterine infusion to medicate your lactating cattle is an unapproved use for which safety and efficacy has not been proven and constitutes manufacturing a new animal drug, which requires the submission of a New Animal Drug Application for FDA approval. Labeling states the product is to be administered intramuscularly in cows.

Your use of Oxy-Mycin 100 brand oxytetracycline hydrochloride is not in accordance with approved labeling. Labeling for Oxy-Tet 100 specifically states it is not to be used to treat lactating dairy cattle. The use of oxytetracycline to treat lactating cows will likely cause illegal residues in animals you consign for slaughter.

Failure to comply with the label instructions on the drugs you use to treat your cows presents the likely possibility that illegal residues will occur and makes the drugs unsafe for use.

We request that you take prompt action to ensure that animals which you offer for sale as human food will not be adulterated with drugs or contain illegal residues.

Introducing adulterated foods into interstate commerce is a violation of Section 301(a) of the Act.

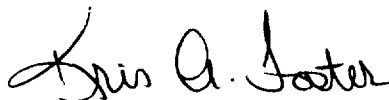
Causing the adulteration of drugs after receipt in interstate commerce is a violation of Section 301(k) of the Act.

You should be aware that it is not necessary for you to have personally shipped an adulterated dairy cow in interstate commerce to be responsible for a violation of the Act. The fact that you offered an adulterated dairy cow for sale to a slaughter facility where it was held for sale in interstate commerce is sufficient to make you responsible for violations of the Act.

This is not intended to be an all-inclusive list of violations. It is your responsibility to ensure that all requirements of the Act are being met. Failure to achieve prompt corrections may result in enforcement action without further notice, including seizure and/or injunction.

Within fifteen days of the receipt of this letter, notify this office in writing of the specific steps you have taken to correct these violations and preclude their recurrence. If corrective action cannot be completed within fifteen working days, state the reason for the delay and the time frame within which corrections will be completed. Your response should address each discrepancy brought to your attention during the inspection and in this letter, and should include copies of any documentation demonstrating that corrections have been made. Please direct your reply to Thomas W. Gordon, CSO, 2202 Monterey Avenue, Suite 104E, Fresno, California, 93721.

Sincerely yours,



Kris A. Foster  
Acting Director  
San Francisco District

cc:

